

AMENDED IN SENATE AUGUST 5, 2002

AMENDED IN ASSEMBLY MAY 31, 2001

AMENDED IN ASSEMBLY MAY 1, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1155

Introduced by Assembly Member Dutra
(Principal coauthor: Assembly Member Leslie)
(Coauthor: Assembly Member Koretz)

February 23, 2001

An act to amend Section ~~529.5~~ 182 of, *and to add Section 529.7 to*, the Penal Code, relating to identity theft.

LEGISLATIVE COUNSEL'S DIGEST

AB 1155, as amended, Dutra. Identity theft.

Existing law ~~governs the powers and duties of the Department of Motor Vehicles with respect to issuing drivers' licenses, identification cards, vehicle registration certificates, and other official department documents.~~ Existing law also makes it a crime to manufacture, offer for sale, sell, or transfer a document that falsely appears to be a government-issued identification card or driver's license. In addition, existing law makes it a crime for a person to obtain the personal identifying information of another person without that person's authorization and to use that information for any unlawful purpose. *Existing law also makes it a crime to conspire to commit any crime.*

This bill would authorize a court to impose a fine of \$25,000 on a person who receives a felony conviction for conspiring to commit identity theft.

This bill would *also* make it a ~~crime~~ *misdemeanor* for a ~~government employee to, as part of a criminal conspiracy, knowingly assist another person to obtain, or assist another person in obtaining,~~ a driver's license, identification card, vehicle registration certificate, or other official document issued by the Department of Motor Vehicles ~~to which that person is not entitled if the government employee knows that the person is not entitled to that document and that the person intends to use the personal identifying information contained in that document for an unlawful purpose~~ *the person has knowledge that the person obtaining the document is not entitled to it.*

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. ~~Section 529.5 of the Penal Code is amended to~~
2 ~~read:~~
3 ~~529.5. (a) (1) Every person who manufactures, sells, offers~~
4 ~~for sale, or transfers any document, not amounting to counterfeit,~~
5 ~~purporting to be a government issued identification card or~~
6 ~~driver's license, which by virtue of the wording or appearance~~
7 ~~thereon could reasonably deceive an ordinary person into~~
8 ~~believing that it is issued by a government agency, and who knows~~
9 ~~that the document is not a government issued document, is guilty~~
10 ~~of a misdemeanor, punishable by imprisonment in a county jail not~~
11 ~~exceeding one year, or by a fine not exceeding one thousand~~
12 ~~dollars (\$1,000), or by both the fine and imprisonment.~~
13 ~~(2) Any person who, having been convicted of a violation of~~
14 ~~subdivision (a), is subsequently convicted of a violation of~~
15 ~~subdivision (a), is punishable for the subsequent conviction by~~
16 ~~imprisonment in a county jail not exceeding one year, or by a fine~~

1 not exceeding five thousand dollars (\$5,000), or by both the fine
2 and imprisonment.

3 ~~(3) Any person who possesses a document described in~~
4 ~~subdivision (a) and who knows that the document is not a~~
5 ~~government-issued document is guilty of a misdemeanor~~
6 ~~punishable by a fine of not less than one thousand dollars (\$1,000)~~
7 ~~and not more than two thousand five hundred dollars (\$2,500). The~~
8 ~~misdemeanor fine shall be imposed except in unusual cases where~~
9 ~~the interests of justice would be served. The court may allow an~~
10 ~~offender to work off the fine by doing community service. If~~
11 ~~community service work is not available, the misdemeanor shall~~
12 ~~be punishable by a fine of up to one thousand dollars (\$1,000),~~
13 ~~based on the person's ability to pay.~~

14 ~~(4) If an offense specified in this section is committed by a~~
15 ~~person when he or she is under 21 years of age, but is 13 years of~~
16 ~~age or older, the court also may suspend the person's driving~~
17 ~~privilege for one year, pursuant to Section 13202.5 of the Vehicle~~
18 ~~Code.~~

19 ~~(b) Any person employed by a governmental entity who, as part~~
20 ~~of a criminal conspiracy, assists another person in obtaining a~~
21 ~~driver's license, identification card, vehicle registration~~
22 ~~certificate, or any other official document issued by the~~
23 ~~Department of Motor Vehicles, with knowledge that the other~~
24 ~~person is not entitled to that document and intends to use it in~~
25 ~~violation of Section 530.5, is guilty of a public offense punishable~~
26 ~~by imprisonment in a county jail not to exceed one year, a fine not~~
27 ~~to exceed ten thousand dollars (\$10,000), or both that~~
28 ~~imprisonment and fine, or by imprisonment in the state prison, a~~
29 ~~fine not to exceed ten thousand dollars (\$10,000), or both that~~
30 ~~imprisonment and fine.~~

31 ~~SEC. 2.—~~

32 *SECTION 1. Section 182 of the Penal Code is amended to*
33 *read:*

34 182. (a) If two or more persons conspire:

35 (1) To commit any crime.

36 (2) Falsify and maliciously to indict another for any crime, or
37 to procure another to be charged or arrested for any crime.

38 (3) Falsely to move or maintain any suit, action, or proceeding.

39 (4) To cheat and defraud any person of any property, by any
40 means which are in themselves criminal, or to obtain money or

1 property by false pretenses or by false promises with fraudulent
2 intent not to perform those promises.

3 (5) To commit any act injurious to the public health, to public
4 morals, or to pervert or obstruct justice, or the due administration
5 of the laws.

6 (6) To commit any crime against the person of the President or
7 Vice President of the United States, the Governor of any state or
8 territory, any United States justice or judge, or the secretary of any
9 of the executive departments of the United States.

10 They are punishable as follows:

11 When they conspire to commit any crime against the person of
12 any official specified in paragraph (6), they are guilty of a felony
13 and are punishable by imprisonment in the state prison for five,
14 seven, or nine years.

15 When they conspire to commit any other felony, they shall be
16 punishable in the same manner and to the same extent as is
17 provided for the punishment of that felony. If the felony is one for
18 which different punishments are prescribed for different degrees,
19 the jury or court which finds the defendant guilty thereof shall
20 determine the degree of the felony the defendant conspired to
21 commit. If the degree is not so determined, the punishment for
22 conspiracy to commit the felony shall be that prescribed for the
23 lesser degree, except in the case of conspiracy to commit murder,
24 in which case the punishment shall be that prescribed for murder
25 in the first degree.

26 If the felony is conspiracy to commit two or more felonies which
27 have different punishments and the commission of those felonies
28 constitute but one offense of conspiracy, the penalty shall be that
29 prescribed for the felony which has the greater maximum term.

30 When they conspire to do an act described in paragraph (4), they
31 shall be punishable by imprisonment in the state prison, or by
32 imprisonment in the county jail for not more than one year, or by
33 a fine not exceeding ten thousand dollars (\$10,000), or by both that
34 imprisonment and fine.

35 When they conspire to do any of the other acts described in this
36 section, they shall be punishable by imprisonment in the county
37 jail for not more than one year, or in the state prison, or by a fine
38 not exceeding ten thousand dollars (\$10,000), or by both that
39 imprisonment and fine. *When they receive a felony conviction for*
40 *conspiring to commit identity theft, as defined in Section 530.5, the*

1 *court may impose a fine of up to twenty-five thousand dollars*
2 *(\$25,000).*

3 All cases of conspiracy may be prosecuted and tried in the
4 superior court of any county in which any overt act tending to
5 effect the conspiracy shall be done.

6 (b) Upon a trial for conspiracy, in a case where an overt act is
7 necessary to constitute the offense, the defendant cannot be
8 convicted unless one or more overt acts are expressly alleged in the
9 indictment or information, nor unless one of the acts alleged is
10 proved; but other overt acts not alleged may be given in evidence.

11 *SEC. 2. Section 529.7 is added to the Penal Code, to read:*

12 *529.7. Any person who obtains, or assists another person in*
13 *obtaining, a driver's license, identification card, vehicle*
14 *registration certificate, or any other official document issued by*
15 *the Department of Motor Vehicles, with knowledge that the person*
16 *obtaining the document is not entitled to the document, is guilty of*
17 *a misdemeanor, and is punishable by imprisonment in a county jail*
18 *for up to one year, or a fine of up to one thousand dollars (\$1,000),*
19 *or both.*

20 *SEC. 3. No reimbursement is required by this act pursuant to*
21 *Section 6 of Article XIII B of the California Constitution because*
22 *the only costs that may be incurred by a local agency or school*
23 *district will be incurred because this act creates a new crime or*
24 *infraction, eliminates a crime or infraction, or changes the penalty*
25 *for a crime or infraction, within the meaning of Section 17556 of*
26 *the Government Code, or changes the definition of a crime within*
27 *the meaning of Section 6 of Article XIII B of the California*
28 *Constitution.*

